



# CITY OF LODI

## COUNCIL COMMUNICATION

AGENDA TITLE: Amend Municipal Code Chapter 9.18 relative to vending on street, sidewalks and private property.

MEETING DATE: October 7, 1998

PREPARED BY: Community Development Director

RECOMMENDED ACTION: That the City Council approve the modifications to the Municipal Code relative to vending on streets, sidewalks and private property, and conduct first reading of the attached ordinance.

BACKGROUND INFORMATION: For a number of months, staff has been responding to a variety of complaints associated to various vending operations. Typically, these have been in the form of catering trucks parked on public and private property. Many of these situations have become fixtures within parking lots, and unimproved right-of-ways throughout the community.

The ordinance proposed for City Council consideration provides a comprehensive set of regulations designed to protect public safety as well as provide a level playing field for all business enterprise to follow. The types of operations that would be affected by these requirements include: Catering trucks, produce sales, ice cream vendors or the sidewalk sales of goods not associated with an adjacent retail location.

It is not the intent of this ordinance to prohibit this type of vending provided they keep mobile as they were originally designed. It is our desire however, to not allow a vendor to essentially set up shop in a parking area in front of a business that provides an enclosed space and abides by all other zoning regulations. Exceptions to the rule include those businesses who have obtained an encroachment permit from the City Council to operate within the public right-of-way or for any sales conducted in connection with a state-certified open-air market.

FUNDING: Not Applicable

Konradt Bartlam  
Community Development Director

KB/lw

Attachment

cc: Police Chief  
Public Works Director  
Economic Development Coordinator

APPROVED:

H. Dixon Flynn -- City Manager

ORDINANCE NO. 1669

AN ORDINANCE OF THE LODI CITY COUNCIL REPEALING LODI MUNICIPAL CODE CHAPTER 9.18, RELATING TO SELLING ON STREETS AND SIDEWALKS AND REENACTING LODI MUNICIPAL CODE CHAPTER 9.18 RELATING TO VENDING ON STREETS, SIDEWALKS AND PRIVATE PROPERTY; AND FURTHER REPEALING LODI MUNICIPAL CODE SECTION 10.44.080 RELATING TO UNLAWFUL PARKING – PEDDLERS, VENDORS

BE IT ORDAINED BY THE LODI CITY COUNCIL AS FOLLOWS:

Section 1. Lodi Municipal Code Chapter 9.18 – Selling on Streets and Sidewalks - is hereby repealed and reenacted to read as follows:

**Lodi Municipal Code Chapter 9.18**

**Vending on Streets, Sidewalks and Private Property**

Sections:

9.18.010	Purpose and Intent
9.18.020	Definitions
9.18.030	Time Restrictions for Remaining in One Location
9.18.040	Encroachment Permit
9.18.050	Food Vending Vehicle Regulations
9.18.060	Prohibited Conduct
9.18.070	Sanitation Standards
9.18.080	Vending Of Produce
9.18.090	Applicability of Regulations to Existing Business
9.18.100	Exemptions
9.18.110	Penalties
9.18.120	Enforcement

**9.18.010 Purpose and Intent**

The City Council expressly finds that the vending of produce, prepared or prepackaged foods, goods, wares, and/or services on public streets, sidewalks or alleys and on private property pose traffic hazards and special dangers to the public health, safety and welfare of the residents of the City of Lodi. It is the purpose and intent of the City Council, in enacting this chapter, to provide those persons who engage in those type of vending operations with clear and concise regulations to prevent safety, traffic and health hazards, as well as to preserve the peace, safety and welfare of the community.

**9.18.020 Definitions**

- A. "Commissary" means a food establishment in which food, containers, equipment, or supplies are stored or handled for use in food vending vehicles.

- B. "Conveyance" as used in this chapter means any vehicle, trailer, cart, wagon or stand, with or without wheels, which may be moved from one place to another under its own power or by other means.
- C. "Fixed place of business" as used in this chapter means a permanent building or structure, and areas adjacent thereto, where a business is regularly and customarily conducted. A conveyance, whether operable or not, does not constitute a fixed place of business for purposes of this chapter.
- D. "Food Vending Vehicle" means any conveyance, which is equipped and used, for retail sales of produce and/or prepared, pre-packaged, or unprepared, unpackaged food or foodstuffs of any kind on any public street, alley or highway or private street, alley or property within the City of Lodi. The inventory of these vehicles is not limited to edible items and may include non-food sundries.
- E. "Mobile Food Vendor" shall mean any person, as defined in this article, who owns, controls, manages and/or leases a food vending vehicle, pushcart or wagon and/or, contracts with a person(s) to drive, operate prepare foods and/or vend from a food vending vehicle, pushcart or wagon.
- F. "Operator" as used in this article shall mean any and all person(s) who drive, operate, vend and/or prepare food on or from a food vending vehicle.
- G. "Person" means any person, firm, partnership, association, corporation, stockholder and includes but is not limited to, owners, operators, drivers, lessors and lessees of food vending vehicles.
- H. "Produce" shall mean articles produced or grown from or on the soil, or found in soil, including but not limited to fruits, nuts, vegetables, and flowers.
- I. "Vend or Vending" as used in this article means the sale or distribution of any goods, wares or services, and/or the offering of produce, prepared food, prepackaged food or non-food sundries of any kind for sale by any person on a public or private street, alley, highway or public place, or from private property within the City of Lodi and includes the movement or standing of a food vending vehicle for the purpose of searching for, obtaining or soliciting retail sales of produce, prepared food, prepackaged food or non-food sundries.

**9.18.030 Time Restriction for Remaining in One Location**

- A. It is unlawful for any person, firm or corporation to vend along a public street, right-of-way or sidewalk for a period longer than ten minutes without moving to a new location at least one hundred feet removed therefrom, unless a written permit to remain stationary has been issued by the City Council as described in Section 9.18.040 of this code.
- B. It is unlawful for any person, firm or corporation to vend at one location on private property for longer than thirty (30) minutes, and shall be moved a minimum of five hundred (500) feet before vending again.

**9.18.040 Encroachment Permit**

- A. No person, firm or corporation shall park or stand any vehicle or wagon used or intended to be used in the transportation of property for hire on any street while awaiting patronage for such vehicle or wagon without first obtaining a written encroachment permit to do so from the City Council which shall designate the specific location where the vehicle may stand.
- B. Whenever any written encroachment permit is granted under the provisions of this section and a particular location to park or stand is specified therein, no person shall vend at any location other than as designated in such permit. In the event that the holder of any such permit is convicted in any court of competent jurisdiction for violating the provisions of this section, such permit shall be forthwith revoked by the council upon the filing of the record of such conviction with the council and no permit shall thereafter be issued to such person until six months have elapsed from the date of such revocation.

**9.18.050 Food Vending Vehicle Regulations**

- A. Each food vending vehicle, shall have a current, valid County of San Joaquin Environmental Health Division inspection sticker affixed to the left rear of the food vending vehicle, and have the business name, phone number and commissary location on the side of their vehicle;
- B. Each operator shall have a valid business license from the City of Lodi as required by Section 3.01 of the Lodi Municipal Code;
- C. Each person who operates a food vending vehicle, shall have a valid peddler's license from the City of Lodi as required by Section 9.16 of the Lodi Municipal Code;
- D. Each person who operates a food-vending vehicle shall have on his/her person a current, valid California driver's license or Identification card, which shall be made available for inspection by law enforcement officials upon request.
- E. Food vending vehicles operating on private property shall be parked on an approved parking surface of concrete or asphalt, and shall not obstruct parking lot drive aisles, fire lanes or access driveways.

**9.18.060 Prohibited Conduct**

- A. No person shall vend from a food vending vehicle, which is stopped, parked or standing on any public street, alley or highway:
  - 1. Where such operation will cause a traffic hazard;
  - 2. Within three hundred feet of any school grounds on any day when school is in session;
  - 3. Within one hundred feet of any street intersection;

4. Within five hundred (500) feet of any other operating food-vending vehicle;
  5. When the posted speed limit on the public street is greater than thirty-five (35) mile per hour;
  6. When the food vending vehicle is parked in violation of any other provision of this code or the California Vehicle Code;
  7. When the prospective customer is located in that portion of the street, alley or highway which is open to vehicular traffic.
- B. No person shall back a food-vending vehicle to make or attempt to make a sale.
- C. No additional lighting other than that required by the California Vehicle Code may be installed or operated on a food-vending vehicle.
- D. The use of electrical extension cords from the food-vending vehicle to facilities on public or private property shall be prohibited, except as required within an approved commissary.
- E. The aforementioned prohibitive conduct shall not apply to the sale or distribution of any newspaper, flier or handbill.

**9.18.070 Sanitation Standards**

- A. All food-vending vehicles shall operate out of a commissary or other facility approved by the County of San Joaquin. Food vending vehicles shall report to the commissary at least once each operating day for cleaning and service operations.
- B. All food vending vehicles shall be equipped with refuse containers large enough to contain all refuse generated by the operation of such a vehicle, and the operator of the food vending vehicle shall pick up all refuse generated by such operation within a fifty (50) foot radius of the vehicle before such vehicle is moved.

**9.18.080 Vending Of Produce**

All produce regulated by the California Department of Food and Agriculture, which is sold from a food vending vehicle, shall be handled, transported, displayed or disposed of in accordance with all California Department of Food and Agriculture regulations as they now exist or as amended from time to time.

**9.18.090 Applicability of Regulations to Existing Business**

The provisions of this article shall be applicable to all persons and businesses described herein whether the herein-described activities were established before or after the effective date of the ordinance enacting this ordinance into law.

#### **9.18.100 Exemptions**

This chapter shall not apply to any person engaged in produce sales conducted in connection with the operations of a state-certified open-air market.

#### **9.18.110 Penalties**

Any person violating any provisions or failing to comply with any of the mandatory requirements of this chapter is subject to the following penalties:

1. A person convicted of a violation of this chapter is guilty of an infraction, punishable by a fine not exceeding one hundred dollars for the first violation;
2. A fine not exceeding two hundred dollars for a second violation of the same provisions within one year;
3. Third and subsequent convictions for violations of this chapter during any one-year period shall be deemed misdemeanors, punishable as specified in Section 1.08.010(B) of this code.

#### **9.18.120 Enforcement**

The provisions of this chapter may be enforced by any peace officer, or the director of Community Development or his/her designee.

**Section 2.** Lodi Municipal Code Chapter 10.44.080 – Unlawful Parking – Peddlers, Vendors- is hereby repealed:

**Section 3. - No Mandatory Duty of Care.** This ordinance is not intended to and shall not be construed or given effect in a manner which imposes upon the City, or any officer or employee thereof, a mandatory duty of care towards persons or property within the City or outside of the City so as to provide a basis of civil liability for damages, except as otherwise imposed by law.

**Section 4. - Severability.** If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application. To this end, the provisions of this ordinance are severable. The City Council hereby declares that it would have adopted this ordinance irrespective of the invalidity of any particular portion thereof.

**Section 5.** All ordinances and parts of ordinances in conflict herewith are repealed insofar as such conflict may exist.

**Section 6.** This ordinance shall be published one time in the "Lodi News Sentinel", a daily newspaper of general circulation printed and published in the City of Lodi and shall be in force and take effect thirty days from and after its passage and approval.

Approved this \_\_\_\_ day of \_\_\_\_\_, 1998

\_\_\_\_\_  
JACK A. SIEGLOCK  
Mayor

Attest:

ALICE M. REIMCHE  
City Clerk

State of California  
County of San Joaquin, ss.

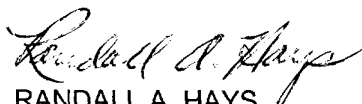
I, Alice M. Reimche, City Clerk of the City of Lodi, do hereby certify that Ordinance No. \_\_\_\_ was introduced at a regular meeting of the City Council of the City of Lodi held October 7, 1998 and was thereafter passed, adopted and ordered to print at a regular meeting of said Council held \_\_\_\_\_, 1998, by the following vote:

Ayes:	Council Members –
Noes:	Council Members –
Absent:	Council Members –
Abstain:	Council Members –

I further certify that Ordinance No. \_\_\_\_ was approved and signed by the Mayor on the date of its passage and the same has been published pursuant to law.

ALICE M. REIMCHE  
City Clerk

Approved as to Form:

  
RANDALL A. HAYS  
City Attorney

DALE V. THOMPSON  
1506 WEST TOKAY STREET  
LODI, CALIFORNIA 95242

209.334.4664

October 2, 1998

Mr. Rod Bartlett  
Community Development Department  
City of Lodi  
P O Box 3006  
Lodi, CA 95241-1910



Dear Mr. Bartlett:

I have read in the Lodi NEWS-SENTINEL the recent article regarding possible stronger regulations of food vending vehicles in Lodi.

I would like to relate a personal experience I had in a closely related matter.

Several months ago I was driving down School Street when I saw an older model delivery type van truck parked along the side of the road. There was no signage of any type on this vehicle and I saw no one around it. Just as I started to move past the vehicle a young boy suddenly darted into the street, running into the right front fender of my car. He then bounced across my car and landed on the street. Fortunately, he was not seriously injured and the investigating police officer determined that I was not at fault in any way for this accident I still feel bad that the young boy was hurt at all.

The parked vehicle I described earlier turned out to be an ice cream truck that was selling to individuals. As I mentioned, it had no signs nor lights of any kind. If school buses display flashing lights when they stop, I think this type of ice cream truck and similar vehicles should display cautionary signs and lights to alert approaching vehicles of possible activities around them when they stop.

Sincerely,

*Dale Thompson*

Dale V. Thompson